

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
UNITED STATES OF AMERICA, : 17-mj-00358-PK-1
:
- versus - : U.S. Courthouse
: Brooklyn, New York
RUSLAN MIRVIS, :
Defendant : May 12, 2017
-----X

TRANSCRIPT OF CRIMINAL CAUSE FOR BAIL HEARING
BEFORE THE HONORABLE CHERYL L. POLLAK
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

For the Government:

Bridget M. Rohde, Esq.
Acting U.S. Attorney

BY: **Drew Rolle, Esq.**
Assistant U.S. Attorney
271 Cadman Plaza East
Brooklyn, New York 11201

For the Defendant:

Amanda L. David, Esq.
Federal Defenders
of New York
One Pierrepont Plaza
16th Floor
Brooklyn, NY 11201

Transcription Service:

Transcriptions Plus II, Inc.
61 Beatrice Avenue
West Islip, New York 11795
laferara44@gmail.com

Proceedings recorded by electronic sound-recording,
transcript produced by transcription service

Proceedings

1 THE CLERK: So we have a Criminal Cause for
2 Bail Application. It's 17-M-358, United States v. Ruslan
3 Mirvis.

4 Counsel, state your appearance, please.

5 MR. ROLLE: Good morning, your Honor.

6 Drew Rolle for the United States.

7 THE COURT: Good morning.

8 MS. DAVID: Good morning, your Honor.

9 Amanda David on behalf of Mr. Mirvis who is
10 present.

11 THE COURT: Okay. Good morning.

12 Mr. Mirvis, I take it you understand English.

13 THE DEFENDANT: Yes, I do.

14 THE COURT: Okay. If at any point something is
15 said that you don't understand, please tell me, okay?

16 THE DEFENDANT: Okay.

17 THE COURT: So we're here this morning for a
18 bail application.

19 MS. DAVID: Yes, your Honor.

20 THE COURT: Okay.

21 MS. DAVID: We would ask that the Court
22 consider releasing Mr. Mirvis on bond with stringent
23 conditions from pretrial. We would propose a \$150,000
24 bond which is a significant amount of money to four of
25 his suretors. The proposed suretors are his mother, who

Proceedings

1 does collect Social Security, his brother, who is a
2 paralegal at a law office, his aunt, who works as a home
3 attendant, and a family friend, who works at a dentist
4 office.

5 His mother is disabled, as is his father. Mr.
6 Mirvis, prior to being arrested, was living at home with
7 his parents, helping to take care of them. Each of the
8 folks that we're proposing make a modest income and I
9 think that there are also people that Mr. Mirvis deeply
10 cares about and who care about him and would be able to
11 exercise moral suasion over Mr. Mirvis. He doesn't have
12 any prior convictions. He -- there's no indicia that he
13 would be a risk of flight.

14 The Court would be able to impose conditions of
15 home confinement, as well as significant restrictions to
16 his access to any electronic devices and the standard
17 conditions in these types of cases and I can respond or
18 say more if the Court has interest in hearing more about
19 each of the proposed suretors.

20 THE COURT: Well, let me hear what the
21 government's position is first and then we can talk.

22 MR. ROLLE: Your Honor, the government
23 strenuously opposes release of this defendant. To start,
24 defense counsel mentioned that there are conditions in
25 these types of cases but I would submit to your Honor if

Proceedings

1 you read the complaint and I am happy to go through some
2 of these things with your Honor, this is unlike almost
3 any of the child exploitation cases that have come before
4 this Court, your Honor.

5 Between February and April of this year, the
6 defendant posed as a young boy and preyed on 13 child
7 victims in 12 different states across the United States.
8 And the way he did that and the end game for this
9 defendant, as we tracked down and the FBI found out
10 within two weeks of being notified by Facebook as to what
11 was going on, was to convince young, vulnerable females
12 to send and produce child pornography and send them to
13 him. And in other instances, to convince them to
14 sexually abuse their younger siblings.

15 To one of the victims, to accomplish that goal,
16 the defendant deployed threats to these young, vulnerable
17 women who oftentimes as it was flagged for the provider,
18 were contemplating suicide, were hurting themselves and
19 with this knowledge, he leveraged them into committing
20 atrocities for themselves, for their families. In his
21 words, "I'll be sending your family all the pictures for
22 what -- for you lying." When they hesitated, he was
23 quick to turn what he had gathered against them.

24 "If you leave, I am going to start cutting
25 again," as one of the victims told him.

Proceedings

1 At that point, bent to his will, abused their
2 younger sibling and the defendant continues calling them
3 a liar, telling them, "Now I now you didn't want to rub
4 your sister's belly," the sister being a prepubescent,
5 small child. These victims are across the country.
6 These crimes were committed from a computer in the home.
7 They can be committed from anywhere.

8 So the suggestion that home confinement or any
9 condition would ensure the safety of these victims of the
10 community is difficult to understand how it could. This
11 was committed in a way that was not just downloading
12 horrible images for one's own prurient interest and
13 criminal interest but to obtain them and produce them on
14 a platform that's widely available from any computer or
15 any device across the globe.

16 So we don't even -- while those assure your
17 Honor that there are no conditions, we submit that this
18 is a case in which the risk of flight is high. The
19 defendant has been charged with a crime and will be
20 indicted for a crime carrying a 15-year mandatory
21 minimum. That alone is an incredible incentive for any
22 defendant before your Honor to flee.

23 But more importantly, there is no way to ensure
24 the safety of the community in this case, to ensure the
25 safety and security of these victims, these young women,

Proceedings

1 and their families across the country who know what
2 happened and are aware -- can proffer more facts before
3 your Honor but with that being said, we would ask for the
4 defendant to continue to be detained, awaiting his trial
5 in this case.

6 THE COURT: Ms. David?

7 MS. DAVID: Yes, your Honor. The fact that
8 Facebook alerted authorities to the allegations that are
9 the subject of this complaint, I think are significant in
10 that in many of these types of cases when an individual
11 is downloading these illegal materials, the way that they
12 are caught and brought before the Court, is typically
13 because there's an undercover who is acting to try and
14 solicit information from them, to be able to gather
15 evidence.

16 If the Court were to release Mr. Mirvis, then
17 pretrial would not only be able to restrict his use of
18 any electronic devices, but there is monitoring software
19 that can be put on any devices that remain in the home,
20 although Mr. Mirvis and his family are completely willing
21 to surrender and get rid of any electronic devices.

22 I would say that Mr. Mirvis has lived a life in
23 which he has mostly been at home. He doesn't even have
24 -- possess a driver's license. His risk -- him being a
25 risk of flight is different in many cases because he does

Proceedings

1 primarily stay in his home.

2 If he were to violate any of the conditions of
3 his release, the Court would know immediately because of
4 the supervision of pretrial and because -- again, this is
5 not a situation where Mr. Mirvis was collecting images
6 for years, which is not atypical of many of these types
7 of cases where the behavior has gone on for many years
8 unchecked. This is a situation where the allegations are
9 that between this period of time, Mr. Mirvis was
10 allegedly communicating with these young women and
11 Facebook immediately alerted authorities to those
12 communications.

13 Obviously, these are still allegations and Mr.
14 Mirvis is -- we're still learning more evidence and Mr.
15 Mirvis is not admitting guilt to any of these but I do
16 think that the fact that this was -- the nature of these
17 allegations are different but not to the benefit the way
18 that the government is positing.

19 The fact that it was behavior that was quickly
20 brought to authority's attention actually, I think cuts
21 in favor of releasing Mr. Mirvis because his behavior
22 would be clearly monitored and these victims are not at
23 risk, even if the Court believes the allegations or gives
24 credit to the allegations in the complaint.

25 THE COURT: Anything else you want to add,

Proceedings

1 counsel?

2 MR. ROLLE: Your Honor, briefly, if I may?
3 Facebook did alert law enforcement to what was happening.
4 The idea that that mechanism by existing ensure some
5 degree of safety is concerning. In any case, the police
6 do exist, informants do exist but that is not a
7 substitute -- we don't offload the risk of the
8 defendant's recidivism to the fact that someone may, in
9 fact, find out that he's committing crimes.

10 The risk here as we're assessing here today is
11 here. It is the defendant's burden in this case, as a
12 presumption case, given the conduct underlying and the
13 charge in the complaint, but your Honor again, we
14 emphasize that this is a platform that is widely
15 available. The way that this was conducted, he created,
16 invented, wholly invented people. He didn't pose as
17 Ruslan Mirvis to convince these women to do these things.
18 He invented someone totally different. And importantly,
19 he admitted it to the FBI when they confronted him, the
20 day of the arrest.

21 So the evidence in this case is incredibly
22 strong. It is incredibly troubling what has happened,
23 your Honor and we would ask that he continue to remain in
24 the custody of the Bureau of Prisons.

25 THE COURT: All right. Well, I have considered

Proceedings

1 all of the arguments here. This is a presumption case.
2 I find that there are no conditions or combination of
3 conditions that would ensure the safety of the community
4 here.

5 I agree with the government. This is perhaps
6 the most heinous series of allegations relating to child
7 pornography that I have seen and I've been doing this now
8 for quite a while. This is an instance where the
9 defendant is alleged not only to have viewed already
10 existing child pornography but he's alleged to have
11 actually encouraged young children to create it, not only
12 with themselves but with their young siblings and I
13 understand the concept of Facebook catching this quickly,
14 thank Heavens, but if the government is correct and there
15 are actually 13 children that he's been involved with,
16 that's pretty extensive within a one-month's period of
17 time.

18 And I just don't find that the bail package
19 that you've offered is sufficient to overcome these
20 concerns. He is a risk of flight. I understand he
21 doesn't have a driver's license. That doesn't keep
22 people from fleeing. But most importantly, my feeling is
23 he is a risk of danger to the community and I am going to
24 continue him on detention. I think there was a permanent
25 order issued earlier.

Proceedings

1 MR. ROLLE: That's correct, your Honor.

2 THE COURT: All right.

3 (Matter concluded)

4 -o0o-

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 8th day of January, 2018.


Linda Ferrara

AAERT CET**D 656
Transcriptions Plus II, Inc.